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THE SECRETARY OF STATE
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WASHINGTON

December 18, 1959

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Dear Martin:

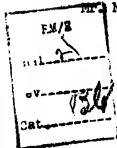
Enclosed you will find 2 copies of a draft package for presentation of the high flights issue to the British and French. When Jim McFarland delivered copies of a slightly different earlier version to Phil Barringer yesterday (before we had seen Norstad's message) Barringer told him JCS was considering USCINCEUR's technical comments and would probably not have a final position ready before the first of the year. Barringer also asked whether the draft still contained the Department's plan for separation of corridor traffic by assignment of mutually exclusive flight levels to Allied and non-Allied aircraft. When Jim confirmed that it did, Barringer said he didn't think JCS would approve of this plan's being discussed with the British and French, or presumably with the Soviets should the occasion arise. Jim reminded him that this specific approach had been approved for discussion with the British and French by the President and that, therefore, we could hardly leave it out of discussions.

Subsequently I talked with both Barringer and Knight by telephone. Both acknowledged that the present delay is attributable solely to JCS and that we should notify you of the cause so you could inform Foy and others who may be expecting something to happen soon.

In reading over Jim's draft presentation, I am struck by the fact that we have received such an abundance of technical comment, most of which ignores the political realities of the situation, that were we to hand the British and the French the present draft their first question might logically be "Granting this is the best time to do this, how do you propose to go about it?" I feel strongly that until the United States has worked out one position which it clearly favors above all others, we should not hand the British and the French anything. We appeared to have such a position when we had Defense's approval, subject only to the two following conditions:

"a. That

Martin J. Hillenbrand,
c/o U. S. Delegation to NATO,
American Embassy,
Paris.

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"a. That JCS may wish to make additional technical comments on State's proposal after receipt of the views of USCINCSUR;

"b. They (JCS) are concerned that full measures be taken to insure that voluntary action of the Allies in no way establishes specific rights for the USSR in any designated air space in the corridors." (From Mr. Knight's letter to Mr. Kohler dated December 1, 1959.)

I am beginning to suspect that the JCS are attempting to use the technical comment angle to bring us back to the original position on which previous discussions have foundered — namely that we have unrestricted and unlimited rights in the corridors and intend to exercise them.

I see no reason why State should appear to be more eager to get on with this project than Defense, which has been the motivating force in the past. I just wanted to acquaint you with the latest developments.

Sincerely,


Alfred G. Vigderman

Enclosure:

Copies 5 and 6 of presentation.

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1. The United States Government proposes to resume and maintain on a regular schedule flights in the Berlin air corridors at altitudes above 10,000 feet. The rationale supporting this proposal is set forth in a discussion paper (enclosure 1).

2. The comments of the British and French Governments upon the proposals presented in enclosure 2 are invited.

3. If tripartite agreement is obtained on these or similar proposals which promise to accomplish our objectives, we would expect to inform the Soviet authorities in Moscow of our decision to resume and maintain high altitude flights in the corridors. We would invite the Soviet controllers to discuss means of enhancing air safety in the corridors and would welcome their active participation in maintenance of air safety. Care must be exercised to avoid allowing the discussions to drift into negotiations on air access which would likely result in the same or equally unacceptable conditions being advanced by the Soviets as they did in the abortive air access negotiations of 1953.

4. We would inform the Soviets that western high altitude flights in the corridors would be made by both military and commercial aircraft. The first flights, however, would be made by our C-53 military transports with the commercial airlines free to enter into similar operations whenever they consider it safe and commercially desirable to do so.

5. In the event of failure to reach agreement with the Soviets within a reasonable time (no deadline would be set but we might consider thirty days reasonable depending upon initial Soviet reaction), we would resume and maintain high altitude flights by military aircraft despite Soviet protests and actions short of those resulting in the loss of an aircraft. It is not contemplated that we would send armed aircraft to escort unarmed transports with fighter planes either before or after such an incident.

Enclosures:

1. Discussion Paper.
2. Statement.

EUR:GCR:GPA:JHD:Farland, Jr:cmr
12-17-59

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DISCUSSION PAPER

I. Background

1. France, the United Kingdom and the United States have the unrestricted right to use the Berlin air corridors created by the Allied Control Council in 1945.

2. Up to 1956 Allied military and civilian as well as non-Allied western aircraft flew above 10,000 feet in the corridors on occasion as weather and other operational factors required. These flights were infrequent, however, largely because the equipment in use did not require the use of altitudes above 10,000 feet for reasons of efficiency and economy. As early as 1953 the Soviets began to assert that 12,500 feet was a fixed ceiling on the corridors. The Allies rejected these claims on almost every occasion in which the Soviets advanced them. It was only in 1958 that the Soviets put in writing their declaration on corridor ceilings and formally refused to "guarantee flight safety" for any and all western aircraft filing flight plans for altitudes above 10,000 feet. Thereafter, although ostensibly maintaining our right to fly at any altitude we chose, the Three Western Powers in fact were careful to file plans for altitudes below 12,500 feet.

3. After long discussion, three high altitude flights in the Berlin corridors were conducted in the spring of 1960 by United States military aircraft. Each was the subject of harassment by Soviet fighter aircraft and of exchanges of oral and written protests in the quadripartite Berlin Air Safety Center (BASC) and through diplomatic channels. The flights were warmly applauded by the Germans, particularly the Berliners, as evidence of Allied determination to maintain all rights of access to Berlin. On May 7 a B-24 Vigorant was harassed by a Soviet fighter at 10,000 feet. This action was vigorously protested by the British.

4. United States high altitude flights in the corridor were suspended for the duration of the initial session of the Geneva Conference on the understanding that the principle of such flights was considered firmly established and that we could initiate further flights at any time necessary or desirable.

5. The Government of the United States considers that the resumption of these flights is justifiable on both economic and logistic grounds. Once undertaken these flights will be maintained on a regular schedule and will serve a dual purpose. They will provide our maximum efficiency in the operation of the equipment now coming increasingly into use by our military air transport units stationed in Europe and will uphold our right to fly to Berlin at altitudes above 15,000 feet through continuous exercise of the right.

6. Since the Khrushchev visit to the United States, there have been a number of indications of increased interest on the part of the Allies in the resumption of high altitude flights, particularly if they could be undertaken in safety by commercial aircraft serving Berlin. It seems appropriate at this time to test, in a known but significant context of quadripartite relations, the willingness of the Soviets to be agreeable.

a. Air France has already publicly announced its intention of inaugurating Caravelle jet service to Berlin as soon as facilities at Tegel airfield permit. It would definitely benefit from the right to operate at economically suitable levels above 15,000 feet.

b. The United States Air Force in Europe is rapidly converting its transport aircraft to turbo-prop G-119s. Already more than fifty percent of the aircraft at its disposal are G-119s. By late 1948 all will be G-119s. Their efficient operation requires the use of higher altitudes.

c. A recent Berlin Air Coordinating Committee Report (BACC/Memo (50)10 UB, October 6, 1959) touches upon the improved safety factor in reaching an alternate airfield which high altitude operation would provide for all turbo-prop jet aircraft.

d. The Soviet civil airline Aeroflot recently (November 1959 - in connection with the travel from the Federal Republic to the USSR of Sakou Doure) conducted a round-trip flight in the south corridor between Berlin and Frankfurt at 23,000 feet westbound and 24,000 feet eastbound. The aircraft was a turbo-prop IL-18. Therefore, the Soviets themselves recognize the necessity for high altitudes for turbo-prop flights.

II. Present Situation

7. To continue publicly to insist upon our right but to refrain entirely from its exercise in this situation places unacceptable limitations upon us and amounts to tacit acceptance of a unilaterally imposed Soviet ceiling on our use of the corridors. Acceptance of one such restriction might encourage the Soviets to attempt to impose others until an intolerable and dangerous situation could result.

8. Western controllers in BACC have long acknowledged that full and unrestricted Allied use of corridors would prevent the Soviet Bloc with certain difficult air traffic control problems and effectively block non-allied air traffic over much of East Germany. Provision for non-allied cross corridor traffic (ideally with, but probably without notice to the Three Western Powers) should go far to cut the ground out from under the present basis for Soviet objections.

10. Enclosure 2 sets forth the proposals which NATO and FAA authorities prefer to discuss with the Soviets and which they consider to be the most feasible from the standpoint of conformity with standard NATO procedures in use throughout the world.

Enclosure 2 also outlines a proposal which could provide an acceptable compromise between western claims to exclusive unrestricted use of the corridors at all altitudes and the Soviet claim to unrestricted use of the airspace over the corridors above 10,000 feet.

11. If tripartite agreement is reached to discuss these or other proposals with the Soviets which will enable western military and civil aircraft to fly in the corridors above 10,000 feet, the Three Governments would authorize their representatives in HASS to enter into technical discussions of the air safety problems involved with their Soviet counterpart.

12. Once the decision is taken to announce resumption of high flights to the Soviets and invite technical discussion of air safety we would have to be prepared to continue flights in the face of possible Soviet protests and/or harassment.

STATEMENT TO BE HANDED SOVIETS CONCERNING OUR INTENTION
TO RESUME HIGH ALTITUDE FLIGHTS IN THE BERLIN CORRIDORS
MIGHT BE BASED UPON ONE OF THE THREE FOLLOWING ALLEGATIONS
OR A COMBINATION THEREOF

We are about to establish a regular schedule of high altitude flights in the Berlin air corridors. The frequency of these flights is expected to increase with the steady conversion to jet and turbo-prop aircraft by the respective Air Forces and airlines of the Three Western Powers.

Proposal One

In order to insure maximum flight safety all flights by military or civil aircraft of the Three Western Powers will observe strictly the Flight Rules for Aircraft Flying in Air Corridors in Germany and Berlin Control Zone (DAIR/P(45)71 Second Revision), which was quadripartitely agreed October 22, 1946 and which remains in force today.

Aircraft crossing the corridors are expected to comply strictly with procedures set down in paragraphs 8 and 36 of reference document.

Proposal Two

With the coming into use of increased numbers of high performance aircraft together with an over-all increase in traffic in the corridors, the staff and facilities of NASU (the Berlin Air Safety Center) should be augmented to permit operating as a quadripartite flight control center. Such center would actually control the flight of all aircraft within the Berlin Control Zone and of all aircraft flying through or across the three air corridors between the Berlin Control Zone and the borders of the Federal Republic.

Proposal Three

In order to insure maximum flight safety, the Three Western Powers hereby give notice of their intention to observe voluntarily (until further notice) the following procedures:

1(a). In all above emergency conditions, all Allied planes entering the corridors from the Federal Republic above flight level 100 (10,000 feet) will confine themselves to flight levels between 160 and 290 (16,000 and 29,000 feet) until they have passed over (1) the Willemk intersection in the north corridor; (2) the Belle intersection in the center corridor; (3) the Eckenro intersection in the south corridor. After passing over these respective points, the planes will begin their descent and will be at or below flight level 100 as they enter the Berlin Control Zone.

1(b). Planes leaving Berlin for the Federal Republic and intending to fly above flight level 100 will not rise above flight level 160 in the Berlin Control Zone (as previously quadripartitely agreed) and will have risen above flight level 160 by the time they pass over the appropriate beacon listed in 1(a) above. Thereafter they will remain between flight levels 160 and 290 until they have left the corridors except under the emergency conditions referred to above.

1(c). The airspace between flight levels 25 (2,500 feet) and 290 (29,000 feet) between the Berlin Control Zone and the respective intersections named in 1(a) above would be reserved for the exclusive use of aircraft flying through the corridors. Cross corridor traffic would be permitted in this airspace only upon advance application and express permission of the western controllers. On occasion, aircraft (especially turbo-prop and jet) using the corridors would have to hold in this area at maximum altitudes because of the high fuel consumption rate to which they would be subject at or below the presently agreed Berlin Control Zone ceiling. The airspace below flight level 25 and above flight level 290 in this area would be available for cross corridor traffic at all times except upon special notice due to emergencies.

2(a). Allied aircraft entering the Berlin corridors from the Federal Republic below flight level 100 will ordinarily not rise above that level nor descend below flight level 25 until they have entered the Berlin Control Zone and are preparing to land.

2(b). Allied aircraft leaving Berlin for the Federal Republic, for which a flight plan for flight levels between 25 and 100 has been filed will ordinarily adhere to that plan unless weather or other factors necessitate using a higher level, in which case the pilot may request clearance to utilize the higher flight level (180-290).

3. The airspace in the (a) north corridor from the Wilsnack intersection; (b) center corridor from the Dulle intersection; and (c) south corridor from the Kohnen intersection, westward to the border of the Federal Republic between flight levels 100 and 180 will not ordinarily be used by western aircraft and, in the absence of special notice to the contrary, may be assumed to be free thereof and available for cross corridor traffic.

4. Weather and load factors, in addition to basic flight characteristics of the aircraft, will continue to influence the choice of operating levels. Insofar as possible, flights "1000 on top" will be accomplished within either of the two ranges of flight levels to be utilized.

5. Flights by Allied aircraft utilizing the flight levels between 25 and 100 or between 180 and 290 will continue to be notified to the Soviet controller in RASG in the presently agreed manner.

6. The Three Western Powers reserve the right to make such adjustments of the foregoing formulas as may become necessary in the light of experience [acquired during the first six months of operation] in order to insure maximum safety of all aircraft operating in or across the corridors.

7. The co-operation of the Soviet element is solicited in the maintenance of the highest standards of flight safety in which all Four Powers have an equal and continuing interest.

8. The Soviet controller should be informed at the time of handing him this statement that British, French and United States controllers in RASG are authorized to discuss with the Soviet controller such technical co-ordination as is mutually agreed to be necessary to carry out their joint responsibilities for the maintenance of flight safety.

REMARKS

Each of the three foregoing proposals has certain inherent strengths and weaknesses. Discussion among the Western Powers should determine which course to pursue in technical discussions with the Soviets. Proposals One and Two while technically superior are not free from disadvantages. We must not lose sight of the fact that while NATO/T(45)72 Second Review has been in force since 1946 it has in practice operated only between 2,500 and 10,000 feet, except for the infrequent occasions when an emergency has required western aircraft to fly above 10,000 feet and the Soviets to tolerate such action.

The Soviets apparently have real flight safety problems with existing arrangements and are unable to provide a "guarantee of flight safety" on short notice for flights scheduled above flight level 100 (10,000 feet). Furthermore, even when they do give a "guarantee" between flight levels 25 and 100, there are rather frequent reports of near misses and/or buzzing within those altitudes in the corridors.

Proposal One alone is the best means both technically and legally of carrying through on resumption and maintenance of high level flights in the corridors, if we do not succeed in obtaining Soviet agreement. However, Proposal One alone amounts to seeking Soviet agreement to something they have objected to for some years without offering them any apparent concession or advantage in return. Thus to suggest to the Soviets that we intend to fly at flight levels above 100 under existing rules seems likely to elicit a negative reaction or counterproposal to negotiate some new arrangements on air access which would further haze or totally obscure our basic right.

Proposal Two alone would be both expensive and time consuming to put into operation. It would require installation of new equipment, training of personnel, and the drawing up of new regulations. The Soviets might well agree in principle and then drag out the implementation indefinitely.

Proposal One augmented by Proposal Two as soon as it could be put into operation would appear to be the ideal arrangement and under present circumstances could possibly be made attractive enough to the Soviets to elicit their co-operation.

Although technically superior Proposals One and/or Two are subject to criticism on the grounds suggested above. Proposal Three while admittedly not ideal from the technical standpoint is technically feasible and is acknowledged to be some improvement over the present arrangements. It has the advantage of not requiring the Soviets to change their present system of air traffic control. It represents one positive method of sharing existing airspace without requiring any closer quadripartite co-ordination than is now provided in RANS. It is a specific proposal which should serve to confine discussions to the area of flight safety and not allow them to expand in undesired directions. However, it does represent a departure from existing arrangements which, if not acceptable to the Soviets, would be less easy to justify legally or publicly if we then had to resume flights in the face of Soviet opposition. It constitutes acknowledgment by the Three Western Powers that the Soviets exercise control over portions of corridor airspace not in use by western aircraft, which has been the case de facto for some years.

On balance, Proposal Three may be found to be a useful compromise between conflicting western and Soviet claims.